

CITY OF LOCK HAVEN
CLINTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 2023-08

AN ORDINANCE AMENDING CHAPTER 328 OF THE LOCK HAVEN CITY CODE ADOPTED BY ORDINANCE NO. 999 (PREVIOUSLY ORDINANCE NO. 854, WHICH ADOPTED THE CODE OF ORDINANCES OF THE CITY OF LOCK HAVEN, CLINTON COUNTY, PENNSYLVANIA, BY DELETING CHAPTER 18, PART 4, INDUSTRIAL PRETREATMENT PROGRAM, AND1- BY ADDING AS PART 4, INDUSTRIAL PRETREATMENT PROGRAM)

BE IT ENACTED AND ORDAINED by the City Council of the City of Lock Haven, Clinton County, Pennsylvania, that Chapter 18 be and hereby is amended as follows:

SECTION I. Chapter 328, Sewers and Sewage Disposal, is hereby amended by deleting Part 5, Industrial Pretreatment Program and adding as Part 5, Industrial Pretreatment Program, the following:

A. Repeal and Amendment of Existing Ordinances.

§328-61. Repeal of Ordinance No. 420B.

Ordinance No. 420B, enacted October 19, 1992 is hereby repealed in its entirety as of the effective date of this Part. Ordinance No. 23B [Part 1] is amended by this Part to the extent that it conflicts with this Part. If any issue or conflict arises between or among the provisions of Ordinance No. 23B and this Part, the provisions of this Part shall be binding and the conflicting provisions of Ordinance No.23B shall not apply.

B. Purpose and Policy.

§328-62 Policy.

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Lock Haven and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CPR] Part 403).

§328-63 Objectives.

1. The objectives of this Part are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation or contaminate the resulting sludge, increase the difficulty or cost of operation of the system or reduce the efficiency or effectiveness of the sewer system;

- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public from exposure to toxic or other dangerous substances;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. To provide for the equitable distribution of the cost of administration, operation, maintenance, enforcement and improvement of the Publicly Owned Treatment Works and the industrial pretreatment program;
- F. To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject and
- G. To protect the sewer system from any damage.

2. Administration.

- A. This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
- B. Except as otherwise provided herein, the Superintendent shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to a duly authorized City employee.
- C. All governmental entities discharging into the Publicly Owned Treatment Works shall enact regulations or ordinances which at a minimum, offer equivalency with Lock Haven's Standards, Rules and Regulations. The governmental entity shall also adopt an Ordinance or Resolution which imposes a civil liability for the violation of Lock Haven's Standards, Rules and Regulations. The maximum civil penalty liability shall equal a sum of at least one thousand dollars (\$1,000.00) per day per violation and up to the maximum penalty or fine allowed by law. Such enactment is not intended

to supersede codes or ordinances dealing with local preferences or prerogatives but to assure the capability to cooperatively and comprehensively support Lock Haven's administrative responsibilities. When Lock Haven wishes to seek civil penalties against a User, Lock Haven shall notify the appropriate governmental entity, in writing, requesting that the governmental entity institute proceedings or delegate its authority to do so to Lock Haven, provided however, that if proceedings are not instituted by the governmental entity or Lock Haven is not notified of their intent to do so within fifteen (15) days, then such delegation is automatically granted to Lock Haven, and Lock Haven may proceed to institute suit for civil penalties in accordance with these Standards, Rules and Regulations.

D. Sewer Usage and Discharge Regulations.

§328-64 Abbreviations and Definitions.

1. Abbreviations.

The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD - Biochemical Oxygen Demand
BMP - Best Management Practice
BMR - Baseline Monitoring Report
CFR - Code of Federal Regulations
CIU - Categorical Industrial User
COD - Chemical Oxygen Demand
EPA - U.S. Environmental Protection Agency
gpd - gallons per day
IU Industrial User
mg/l - milligrams per liter
NPDES - National Pollutant Discharge Elimination System
NSCIU - Non-Significant Categorical Industrial User
POTW - Publicly Owned Treatment Works
RCRA - Resource Conservation and Recovery Act
SIU - Significant Industrial User
SNC - Significant Noncompliance
TSS - Total Suspended Solids
U.S.C. - United States Code

2. Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

Act or "the Act" - The Federal Water Pollution Control Act, also known as the

Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

Approval Authority- the administrator or the regional administrator of Region III of the EPA

Authorized or Duly Authorized Representative of the User - An authorized representative of an industrial user may be:

- (1) If the User is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

Biochemical Oxygen Demand or BOD - The quantity of oxygen utilized in the

biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

Building Sewer - A sewer conveying wastewater from the premises of a user to the sewer system.

Bypass - the intentional diversion of wastewater from any portion of an industrial user's pretreatment facility through which the wastewater normally passes.

Best Management Practices or BMPs - means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in §328-65 [40 CFR 403.S(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Categorical Industrial User - An Industrial User subject to categorical Pretreatment standard or categorical Standard.

Categorical Pretreatment Standard or Categorical Standard - Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Certified Professional - a registered professional engineer under the laws of the State of Pennsylvania.

Chain of Custody - a record of sample collection indicating the place and time of collection and the person collecting the sample. It shall also include a record of each person involved in possession of the sample, including the laboratory person who takes final possession of the sample for the purpose of analysis.

Chemical Oxygen Demand or COD - A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

City - The City of Lock Haven, Clinton County Pennsylvania, and the City Council thereof, its agents and officials.

Clean Streams Law - the Act of June 22, 1937, as amended and reenacted by the Act of October 10, 1980, P.L. 894, 35P.S. §§691.1 - 691.702

Color - color of light transmitted through waste after removal of all suspended matter, including pseudo-colloidal particles, and measured in platinum-cobalt units.

Combined Waste Formula - a procedure for calculating discharge concentrations of constituents of industrial waste, as defined in 40 CFR §403.6(e).

Compliance - adherence to conditions or requirements of this Part or the industrial pretreatment program, any written directions issued by the City or any wastewater discharge permit or other permit issued under the provisions of this Part.

Composite Sample - a sample composed of individual subsamples taken at regular intervals over a specified period of time. Subsamples may be proportioned by time interval or size according to flow (flow-proportioned composite sample) or be of equal size and taken at equal time intervals (equal-time composite samples).

Control Authority - The City

Cooling Water - the water from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

Daily Maximum - The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit - The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Discharge - the conveyance of any water or wastewater into the sewer system direct or in-direct.

Domestic Waste - normal household wastes from kitchens, water closets, lavatories and laundries, or any waste form a similar source and possessing the same characteristics.

Enforcement Response Plan - a plan and guide developed pursuant to 40 CFR §403.8(f) providing for the enforcement of the industrial pretreatment program.

Environmental Protection Agency or EPA - The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

Existing Source - Any source of discharge that is not a "New Source."

Garbage - solid or semisolid wastes resulting from preparation, cooking, and dispensing of food and from handling storage and sale of produce.

Grab Sample - A sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Groundwater - water which is contained in or passing through the ground.

Holding Tank Waste - any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Industrial Pretreatment Program - the sum of the provisions of this Part, amendments thereto and any regulations or activities by this Part as regards the regulation and control of industrial users.

Industrial User - any person who discharges industrial waste into the sewer system.

Industrial Waste - any solid, liquid or gaseous substance or form of energy, which is produced as a result, whether directly or indirectly, of any industrial, manufacturing, trade or business process or activity, or in the course of developing, recovering or processing of natural resources, but not sanitary sewage.

Instantaneous Limit - The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference - A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local Limits - Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b). In order to ensure clarity of the applicable limits, they are set forth below and incorporated herein by reference:

Pollutant	Daily Maximum Local Limit (mg/L)	Allocation Method
Arsenic	0.020	Sludge
Cadmium	0.096	Sludge
Chromium (T)	5.500	Inhibition
Copper	2.000	Sludge
Cyanide	1.000	Water Quality
Lead	0.530	Sludge
Mercury	0.014	Water Quality
Nickel	1.000	Sludge
Silver	1.500	Water Quality
Zinc	0.750	Inhibition
Ammonia (NH3-N)	81.000	Design
Oil & Grease	100.000	Design
Phenols	2.000	Inhibition
Selenium	0.250	Inhibition
5-Day Biochemical Oxygen Demand (BOD5)	600.000	Design
Total Suspended Solids (TSS)	600.000	Design

Manhole - a structure allowing access from the surface of the ground to a sewer.

Medical Waste - Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Monthly Average - The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Monthly Average Limit - The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

New Source

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

- (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) Any placement, assembly, or installation of facilities or equipment; or
 - (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncompliance - not in compliance.

Noncontact Cooling Water - Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Ordinance (This Part) - when capitalized, the term ordinance refers to this Part.

Operator - any person having charge, care, control or management of a pretreatment facility for industrial wastes or of a truck used in the removal, transport or disposal of sewage or industrial wastes.

Owner - any person vested with ownership, legal or equitable, sole or partial, of an improved property.

Pass Through - A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.

Person - Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

pH - A measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant - any substance including but not limited to, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pollution - the contamination of any waters of the State such as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life; or contamination of air, soil, or of the environment so as to produce or is likely to produce similar deleterious effects.

Pretreatment - The reduction of the number of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

Pretreatment Coordinator - agent of the City designated to administer the provisions of the industrial pretreatment program.

Pretreatment Requirements - Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

Pretreatment Standards or Standards - Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

Process Wastewater - any wastewater resulting from the direct contact of water with any raw material, intermediate product, finished product, by-product or waste during any manufacturing process, or water other than cooling water which results from a manufacturing process.

Prohibited Discharge Standards or Prohibited Discharges - Absolute prohibitions against the discharge of certain substances; these prohibitions appear in §328-65 of this Part.

Publicly Owned Treatment Works or POTW - A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

Qualified Analyst - any person who has demonstrated competency in the analysis of wastewater by submission of their general recognized documentation of competency to the City, or who is normally employed in the capacity of an analyst by a professional analytical laboratory.

Refrigeration - maintenance of temperature for storage, preservation of food or as a process of manufacturing.

Sanitary Sewage - the normal water carried domestic wastes from any improved property but excluding effluent from septic tanks or cesspools; rain, snow or storm water; groundwater; or other collected water from roofs, drains or basements.

Sanitary Sewer - a sewer carrying only sanitary sewage or industrial wastes and to which storm, surface or ground waters are not intentionally admitted.

Septic Tank Waste - Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage Collection System - all facilities of the City or any municipality party to a service agreement with the City, as of any particular time, used or usable for collecting, transporting, pumping and disposing of wastewater, which facilities

are connected to and served by the sewage treatment plant.

Sewage Treatment Plant - that portion of the sewer system owned by the Lock Haven City Authority and operated by the City, which is designed to provide treatment of wastewater and discharge of treated effluent to the environment.

Sewer - a pipe or conduit for conveying wastewater.

Sewer System - the sewage collection system, sewage treatment plant and any sewers that convey wastewater to the sewage treatment plant. For the purposes of this Part, "sewer system" shall also include any sewers that convey wastewater to the sewage treatment plant from persons who are, by contract or agreement with the City, users of the sewer system.

Significant Industrial User (SIU) - Significant Industrial User is:

- (1) An Industrial User subject to categorical Pretreatment Standards; or
- (2) An Industrial User that:
 - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow down wastewater);
 - (b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by [the City] on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

Significant Noncompliance - a noncompliance which meets or exceeds standards of significant noncompliance determined by the City and contained in §328-70 of this Part.

Significant Violator - any industrial user in significant noncompliance.

Slug Load or Slug Discharge - a Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, local limits or Permit conditions.

Spill - any discharge or pollutants resulting from the spilling, overflowing, rupture or leakage of any storage, process or transfer container, or the control or cleanup activities associated with such an occurrence.

SPCC PLAN - spill prevention, control and countermeasure plan prepared by an industrial user to minimize the likelihood and intensity of a slug load or spill and to expedite control and cleanup activities should a slug load or spill occur.

Standard Industrial Classification (SIC) - a classification pursuant to the "Standard Industrial Classification Manual," issued by the Executive Office of the President, Office of Management and Budget, 1972.

Standard Methods - the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the Water Pollution Control Federation (Water Environment Federation), the American Public Health Association and the American Waterworks Association.

State - Commonwealth of Pennsylvania.

Storm Water - Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Superintendent - The person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Part. The term also means a Duly Authorized Representative of the Superintendent.

Total Suspended Solids or Suspended Solids - The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

Total Toxic Organics - the sum of all quantifiable values of various organic pollutants as determined by the City or, for certain categorical industrial users, as defined in the applicable categorical standard.

Total Organic Management Plan - a plan submitted in lieu of testing for total toxic organics in which an industrial user specifies methods of control to assure that total toxic organics do not routinely enter the sewer system.

Toxic Pollutants - any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of §307(a) of the Act, or other acts, or is present in sufficient quantity, either singly or in combination with other wastewater, so as to present risk of causing interference or pass through, causing harm to humans, animals or plants or creating a hazard to persons or property, either in the sewage collection system, the sewage treatment plant or the environment into which it is

released.

Unauthorized Discharge - discharge of an unauthorized waste, or a discharge which otherwise is not in compliance with the requirements of the industrial pretreatment program or other rules or regulations of the City.

Unauthorized Waste - any substance which discharged into the sewage collection system which is not in compliance with provisions of the industrial pretreatment program, or which is discharged by a person in violation of any of the provisions of this Part.

User - Any person, who contributes, causes, or permits the discharge of wastewater into the sewer system.

Wastewater - Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Discharge Permit - as set forth in §328-68 of this Part.

Wastewater Treatment Plant or Treatment Plant - That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Waters of the State - all streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof.

§328-65. Prohibited Wastes, Discharges, Pollutant Limitations and Standards.

1. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. Such impairment includes, but is not limited to, reduced effectiveness of the POTW's collectors, structures, equipment and treatment process, degradation of receiving waters, endangerment of the health, safety, and welfare of the City and/or City personnel, the general populace and surrounding environs, or a discharge which otherwise constitutes a nuisance. These general prohibitions apply to all Users of the POTW whether they are subject to categorical Pretreat Standard or any other National, State, or local Pretreatment Standards or Requirements.
2. Discharge of Storm waters. No person shall discharge or cause or permit to be discharged any storm water, surface water, ground water, roof water, subsurface drainage or building foundation drainage into any sanitary sewer.

3. Specific Prohibitions. No user shall discharge or cause to be discharged, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the sewer system. These prohibitions apply to all users, whether or not the users are subject to categorical standards or any other pretreatment requirement. No user may discharge any of the following substances to the sewer system:
- A. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the sewer system or to the operation of the sewer system. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5%, nor any single reading over 10 of the Lower Limit (LEL) of the meter. At no time shall the closed cup flashpoint of the wastewater be less than 140 degrees F (60 degrees C) using the methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, the following substances in concentrations which cause exceedance of the above standard: gasoline, kerosene, naphtha, benzene, ethers, alcohols, peroxides, chlorates, perchlorates, bromates and carbides.
 - B. Any wastewater having a pH less than 6.0 or more than 9.0, or wastewater having any other corrosive property capable of causing structural damage to the POTW, its equipment or personnel.
 - C. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the sewer system, such as, but not limited to: grease, garbage with particles greater than 1 1/2 inches in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oils, mud or glass grinding or polishing wastes.
 - D. Any pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the sewage treatment plant or interfere with the operation of the sewer system. In no case shall a slug load be discharged.
 - E. Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

- F. Any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through, but in no case exceeding 20 mg/l;
- G. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- H. Any trucked or hauled wastewater or pollutants, except at discharge points designated by the City in accordance with §328-65.14 of this Part.
- I. Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for maintenance or repair.
- J. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit.
- K. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City or applicable State or Federal regulations.
- L. Any substance which may cause the sewage treatment plant's effluent or any other product of the sewage plant such as residues, sludges, or scums to be unsuitable for reclamation and reuse, or to interfere with the reclamation process. In no case shall a substance discharge to the sewer system cause the sewage treatment plant to be in noncompliance with sludge use or disposal criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act or State criteria applicable to the sludge management method being used.
- M. Any Medical Wastes, except as specifically authorized by the City in an individual wastewater discharge permit.
- N. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other constituents of the wastewater, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the sewage treatment plant or to exceed the limitation set forth in an applicable categorical standard.

- O. Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW.
- P. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l.
- Q. Any wastewater containing any compounds or salts of aldrin, dieldrin, endrin, lindane, methoxychlor, toxaphene, dichlorophenoxyacetic acid, trichlorophenoxypropionic acid or other persistent herbicides, pesticides or rodenticides.
- R. Any wastewater which is incompatible with treatment processes in use at the sewage treatment plant so as to cause interference or pass through.
- S. Any substance which will cause City to violate its NPDES and/ or State water quality management permit or applicable receiving water quality standards.
- T. In addition, the following activities are prohibited:
 - (1) No person shall discharge pollutants and/or wastewater into street inlets or through sewer manholes;
 - (2) No person who generates wastewater at one property shall discharge it at another property without approval from the POTW;
 - (3) No person shall discharge wastewater in quantities or at rates of flow which may have an adverse or harmful effect on or overload the POTW conveyance, collection facilities or wastewater treatment plant(s) or cause excessive additional treatment costs;
 - (4) No person shall discharge a wastewater flow having greater than 600 mg/l of the five-day Biochemical Oxygen Demand (BOD5), 600 mg/l Total Suspended Solids ,100 mg/l Total Nitrogen, or 40 mg/l of Total Phosphorus or having a volume in excess of 250,000 gallons per day without specific approval in a permit issued by the POTW; and
 - (5) No person shall store or handle any material including hazardous substances defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 et. seq, in any area draining to the POTW's collection facilities because discharge or leakage from such storage or handling may create an explosion hazard, may

constitute a hazard to human beings, or animals or the receiving stream, or may have deleterious effect in any other way upon the wastewater treatment facilities. Storage or handling of such materials shall be subject to review by the POTW and the POTW may require a spill control plan with reasonable safeguards to prevent discharge or leakage of such materials into the City's POTW or its collection facilities.

- U. When the City determines that a User is contributing to the POTW amounts of wastewater described in paragraph 3 (A-S) or is involved in activities described in paragraph T (1 through 5) so as to cause Interference or Pass Through with the operation of the POTW, the City shall advise the User(s) of the impact of the contribution on the POTW and:
 - (1) may develop effluent limitations(s) for such User to correct the Interference or Pass Through with the POTW without the need to amend these Standards, Rules, and Regulations; and
 - (2) may proceed with enforcement activities.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

- 4. National Categorical Pretreatment Standards. If the categorical standards for a particular industrial user are more stringent than local limits or other requirements imposed under this Part, then the Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471. The City shall notify in writing all affected industrial users of the applicable reporting requirements under 40 CFR §403.12. The national categorical pretreatment standards are hereby incorporated into the industrial pretreatment program as program requirements for those industrial users subject to such categorical standards.
 - A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City may impose equivalent concentration or mass limits in accordance with subsection (5.D) and (5.E) of this Section (See 40 CFR 403.6(c)).
 - B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the City may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users. (See 40 CFR 403.6(c)(2)).

- C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the City shall impose an alternate limit in accordance with 40 CFR 403.6(e).
 - D. The City may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414,419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the City.
 - E. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section in lieu of the promulgated categorical Standards from which the equivalent limitations were derived. (See 40 CFR 403.6(c)(7))
 - F. Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation. (See 40 CFR 403.6(c)(8)).
 - G. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Superintendent within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Superintendent of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate (See 40 CFR 403.6(c)(9)).
- 5. Removal Credits. Where the sewage treatment plant achieves consistent removal of pollutants limited by categorical standards, the City may apply to the approval authority for modifications of specific limits in the categorical standards if the requirements contained in 40 CFR §403.7 are fulfilled and prior approval from the approval authority is obtained. Any such action shall be at the sole discretion of the City.
 - 6. State Pretreatment Standards State requirements and limitations on discharge shall apply in any case where they are more stringent than National requirements and limitations or those established under this Part.
 - 7. Local Limits. The City Council shall establish, and review and amend from time to time, local limits which control or limit the discharge or specific pollutants by industrial users.

- A. The City is authorized to establish Local Limits pursuant to 40 CFR 403.S(c).
 - B. Local Limits may be established for any substance which is discharged, or likely to be discharged, to the sewer system to protect against Pass Through and Interference; the discharge of toxic materials in toxic amounts; threats to worker health and safety; and physical, chemical or biological damage to the sewer system.
 - C. Local Limits may limit concentration, mass, or a combination of the two.
 - D. Local limits shall be applied to all significant industrial users and shall be included in all wastewater discharge permits. Local limits may be applied to other industrial users if considered appropriate by the City.
 - E. Discharging any pollutant in excess of a local limit established for that pollutant shall constitute an unauthorized discharge. Such discharge is subject to the actions and penalties set forth herein.
 - F. The City has developed technology- based local limits which are specifically set forth in each wastewater discharge permit. These local limits are incorporated herein by reference, as if set forth at length. These local limits are adopted or renewed by the City every five years.
8. The City's Right of Revision. The City reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.
9. Dilution. No User shall ever increase the use of process wastewater, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The City may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or requirements or in other cases when the imposition of mass limitations is appropriate.
10. Slug Loads and Spills. Each industrial user shall provide protection from spills resulting in prohibited discharges and slug load discharges. Facilities to prevent spills and slug loads shall be provided and maintained at the owner or industrial user's own cost and expense. The City shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The City may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges, and if the City so determines that a Slug Control Plan is necessary, then such Plan shall be included as a permit requirement by the City.

All permittees shall notify the City in writing as to any changes in their wastewater discharge that could affect the potential for a slug discharge; such notifications shall be required immediately upon learning that there is a potential for a slug discharge. Alternatively, the Superintendent may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- A. SPCC Plans. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and shall be approved by the City before construction of the facility. All existing industrial users shall complete a spill prevention control and countermeasures (SPCC) plan or provide evidence that such a plan is not necessary for their facility. No industrial user who commences discharge to the sewer system after the effective date of this Part shall be permitted to introduce pollutants into the sewer system until this requirement has been fulfilled. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify its facility as necessary to meet the requirements of the industrial pretreatment program. In the case of a spill, it is the responsibility of the industrial user to immediately telephone and notify the City of the incident. The notification shall include location of discharge, type of waste, concentration and volume, corrective actions being taken or planned and expected duration.
- B. Written Notice. Within 5 days following a spill, slug load or other accidental discharge, the industrial user shall submit to the City a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which may be incurred as a result of damage to the sewer system, fish kill, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties or other liability which may be imposed by this Part or applicable law.
- C. Notice to Employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a spill or other accidental discharge. Employers shall insure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.
- D. Description of stored chemicals
- E. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and

maintenance of storage areas, handling, and transfer of materials, loading and unloading operations, control of plant site runoff worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

- F. SIU Immediate notification to the City. Significant Industrial Users are required to notify the City/Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

11. Notification Requirements; Hazardous Wastes and Hazardous Substances.

- A. All industrial users shall notify the City, the EPA Regional Waste Management Division Director and the Pennsylvania Department of Environmental Protection, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR, Part 261. Such notification shall include the name of the hazardous waste, as set forth in 40 CFR, Part 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 Kilograms of such waste per calendar month, the notification shall also include the following information, to the extent that it is known and readily available to the industrial user:
 - (1) An identification of the hazardous constituents contained in the waste.
 - (2) An estimate of the mass and concentration in the wastewater of all such constituents discharged in the most recent month.
 - (3) An estimate of the mass and concentration of such constituents expected to be discharged during the following twelve months.
- B. Industrial users that commence discharge after the effective date of this Part shall submit the report within 180 days of first discharge of the hazardous waste, except as provided in subsection (12)(D).
- C. The required report need be submitted only once for each hazardous waste discharge. Industrial users regulated under categorical standards which have already submitted such information in baseline monitoring reports or periodic compliance reports do not have to report this information again.
- D. Industrial users that discharge less than 15 kilograms of hazardous wastes in a calendar month do not have to comply with these reporting requirements. This exemption does not apply to acute hazardous wastes as specified in 40 CFR §261.30(d) and §261.33(e).

- E. An industrial user shall notify the City immediately upon becoming aware of any discharges of reportable quantities of listed or unlisted hazardous substances, as defined at 40 CFR §302.4 (CERCLA hazardous substances). This notification shall include the time of release; the name of the substance; the identifying CAS number, if known; and the approximate quantity discharge. If the discharge constitutes a spill, change in wastewater constituents or slug load, other reporting requirements of the industrial pretreatment program may also apply.
 - F. Each notification required by this Section shall include a statement certifying that the industrial user has a program in place to reduce the volume and /or toxicity of the discharge wastes to the extent that it is economically practical. The authorized representative of the industrial user shall sign this statement.
12. Drainage of Water Filtration Systems. Discharge of filter backwash to the sewer system shall be regulated as follows:
- A. Granular media filter backwash water may be discharged to the sewer system, subject to all of the applicable provisions of this Part.
 - B. Diatomaceous earth filter backwash, if discharged to the sewer system, shall be connected to the sewer system through tanks with no less than 3 months storage capacity of spent diatomaceous earth, which tanks shall be accessible for removing solid waste for disposal.
13. Trucked and Hauled Wastes.
- A. Trucked or Hauled waste may be introduced into the POTW only at locations designated by the City, and at such times as are established by the Superintendent. Such waste shall not violate §328-65 (1) through (12) of this Part or any other requirements established by the City.
 - B. The City may require haulers of industrial waste to obtain individual wastewater discharge permits. The City may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The City also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
 - C. Industrial waste haulers may discharge loads only at locations designated by the City or Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable Standards. The City may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

- D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

14. Regulation of Waste Received from Other Jurisdictions

- A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the City shall enter into an intermunicipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph A, above, the City shall request the following information from the contributing municipality:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 - (2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
 - (3) Such other information as the City may deem necessary.
- C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:
 - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in §328-69 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits.
 - (2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
 - (3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the City; and which of these activities will be conducted jointly by the contributing municipality and the City.

- (4) A requirement for the contributing municipality to provide the City with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring the City access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the City.
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

§328-66 Pretreatment of Wastewater

1. Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in § 328-65 of this Part within the time limitations specified by EPA, the State, or the City, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City for review and shall be acceptable to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Part.
2. Additional Pretreatment Measures.
 - A. Whenever deemed necessary, the City may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.
 - B. The City may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual

wastewater discharge permit may be issued solely for flow equalization.

3. Grease and Sand Traps. Grease, oil, and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the City and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired, if deemed necessary by the City, by the User at their expense.
4. Garbage Grinders. The use of mechanical garbage grinders producing a finely divided mass, properly flushed with an ample amount of water, shall be permitted, upon the condition that no such mechanical grinder used for commercial business purposes shall be installed until permission for such use has been obtained from the City.
5. Flammable Substances. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

§328-67 Fees

1. Purpose. It is the purpose of this Section to provide for the recovery of costs from industrial users of the sewer system for the implementation of the industrial pretreatment program established herein. The applicable charges or fees shall be set forth in the City's schedule of charges and fees.
2. Fees that May be Charged. The City may adopt charges and fees which may include:
 - A. Fees for reimbursement of costs of setting up and operating the industrial pretreatment program.
 - B. Fees for monitoring, inspections, and surveillance procedures.
 - C. Fees for reviewing accidental discharges procedures and construction.
 - D. Fees for wastewater discharge permit applications.
 - E. Fees for filing appeals.
 - F. Fees for consistent removal (by the sewage treatment plant) of pollutants otherwise subject to categorical standards.
 - G. Other fees as the City may deem necessary to carry out the requirements

contained herein.

These fees relate solely to the matters covered by this Part and are separate from all other fees chargeable by the City.

§328-68 Permits and Reports for Industrial Waste Discharges

1. Wastewater Analysis. When requested by the Superintendent, a User must submit information on the nature and characteristics of its wastewater within 5 days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require Users to update this information.
2. Individual Wastewater Discharge Permit Requirement. Discharge of any industrial waste to the sewer system without a wastewater discharge permit, except as authorized by the City in accordance with the provisions of this Part, is an unauthorized discharge and subject to the penalties provided herein. Each industrial user has an obligation to make reasonable efforts to determine if it is a significant industrial user and therefore subject to the permitting requirements of subsection (3) of this Section.
3. Significant Industrial User. All significant industrial users proposing to discharge wastewater into the POTW shall first obtaining an individual wastewater discharge permit from the City, except that a Significant Industrial User that has filed a timely application pursuant to subsection (6) of this Section may continue to discharge for the time period specified therein.
4. Other Industrial Users. Industrial users which are not significant industrial users do not require a wastewater discharge permit but are required to comply with all other provisions of this Part. If an industrial user makes changes to processes, flow, wastewater concentration, wastewater characteristics or other changes which result in the industrial user meeting the definition of significant industrial user, the industrial user shall, immediately upon becoming aware that such a change has occurred or 90 days prior to such change if it is planned, notify the City and apply for a wastewater discharge permit. The City may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.
5. Permit Violations. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in § 328-70 of this ordinance. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.
6. Individual Wastewater Discharge Permitting: Existing Connections. Any User

required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to the City or an individual wastewater discharge permit in accordance with subsection 8 of this Section, and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit issued by the City.

7. Individual Wastewater Discharge Permitting: New Connections. Any User required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with subsection 8 of this Section, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.
8. Individual Wastewater Discharge Permit Application Contents. All Users required to obtain an individual wastewater discharge permit must submit a permit application in the form prescribed by the City and accompanied by the fee prescribed in the City's schedule of fees. The City may require Users to submit all or some of the following information as part of a permit application:
 - A. The name and address of the facility (or location if different than the address), including the name of the operator and owner.
 - B. Contact information including the telephone and fax numbers of the personal responsible for the operation of the facility.
 - C. SIC number or numbers according to the "Standard Industrial Classification Manual," Bureau of the Budget, 1972, as amended.
 - D. Environmental Permits. A list of any environmental control permits held by or for the facility.
 - E. Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged.
 - F. Time and duration of wastewater discharges.
 - G. Wastewater constituents and characteristics as required by the City, as determined by a qualified analyst.
 - (1) Sampling and analyses shall be performed in accordance with procedure established by the EPA pursuant to §304(g) of the Act and contained in 40 CFR, Part 136, as amended.

- (2) Sample results shall be accompanied by a signed statement of the authorized representative that the samples analyzed are representative of the normal discharge during the routine operation of the discharging facility.
- H. A brief description of the nature, average rate of production including each product produced by type, amount, processes, and rate of production, and standard industrial classifications of the operation(s) carried out by such User.
- I. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.
- J. Number and type of employees, hours of operation, and proposed or actual hours of operation of pretreatment facility.
- K. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- L. The location for monitoring all wastes covered by the permit.
- M. The measured average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variation in gallons, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in §328-65.S(C) (40 CFR 403.6(e)).
- N. The nature and concentration of any pollutants in the discharge which are limited by any City, State, or National pretreatment requirements (including local limits) or categorical standards, and a statement regarding whether or not the categorical standard or pretreatment requirements are being met on a consistent basis and, if not, how the industrial user proposes to meet the pretreatment standards and requirements, including whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet the applicable standard. If the applicant is a categorical industrial user, this statement shall be signed by a certified professional.
- O. If additional pretreatment and/or O&M will be required to meet categorical standards or other pretreatment requirements (including local limits), the shortest schedule by which the industrial user will provide such additional pretreatment shall be developed and submitted. The completion date of this schedule shall not be later than the compliance date established

for any applicable categorical standard. The following conditions shall apply to this schedule:

- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical standards or other pretreatment requirements (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.)
 - (2) No increment referred to in subsection (0) (1) shall exceed 9 months.
 - (3) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the City, including, as a minimum, whether or not it complied with the increment of the progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the City.
- P. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
- Q. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
- R. Any other information as may be deemed by the City to be necessary to evaluate the application.
- S. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.
9. Application Signatories and Certifications. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section §328-69.3. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the City prior to or together with any to be signed

by an Authorized Representative.

10. Individual Wastewater Discharge Permit Decisions. The City will evaluate the data furnished by the User and may require additional information. The City will then determine whether to issue an individual wastewater discharge permit. The City may deny any application for an individual wastewater discharge permit.
11. Confidentiality of Applications.
 - A. All information required by the City in the permit application shall be provided by the industrial user to the best of its ability.
 - B. If information regarding raw materials, processes, production rates or other manufacturing information is regarded as confidential by the industrial user, such information shall be marked "confidential" on the application form.
 - C. Confidentiality shall not apply to information regarding the flow of or the constituents in the industrial wastewater discharge.
 - D. Information accepted by the City as confidential shall be handled as detailed in Section §328-69.14 of this Ordinance.
12. Individual Wastewater Discharge Permit Duration. An individual wastewater discharge permit shall be issued for a specified time period, not to exceed four (4) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than four (4) years, at the discretion of the City. Each individual wastewater discharge permit will indicate a specific date upon which it will expire. The industrial user shall apply for reissuance of the wastewater discharge permit a minimum of 180 days prior to the expiration of the industrial user's existing wastewater discharge permit. The terms and conditions of the wastewater discharge permit may be subject to modification by the City during the term of the wastewater discharge permit as limitations or requirements as indicated in §328-65 are modified or other just cause exists. The industrial user shall be informed of any proposed changes in its wastewater discharge permit at least 30 days prior to the effective date of change. Any changes or new conditions in the wastewater discharge permit shall include a reasonable time schedule for compliance.
13. Delayed Permit Renewal.
 - A. If the industrial user has complied with the terms of the wastewater discharge permit and this Part, and has applied for renewal as provided for in subsection (12) of this Section and the wastewater discharge permit is not renewed on or before the expiration date through no fault of the industrial user, then the existing wastewater discharge permit shall remain

in effect until it is re-issued or rescinded by the City.

- B. If the wastewater discharge permit is not renewed because of a failure of the industrial user to apply for renewal in a timely fashion or through an act or omission of the industrial user, then discharge of industrial waste by the industrial user without a wastewater discharge permit is an unauthorized discharge and is subject to the enforcement provisions of this Part.

14. Appeal of Wastewater Discharge Permits.

- A. Any industrial user that is issued a wastewater discharge permit may appeal the permit conditions, in whole or in part. Appeal procedures shall be set forth in §328-70.10 of this Part.
- B. During the process of appeal, the wastewater discharge permit shall remain in effect and shall be enforced except for those conditions specified in writing in the appeal. Conditions imposed by Federal or State Regulations (e.g., categorical standards) shall not be waived. Conditions which, in the opinion of the City, would set hazard or pose potential threat of pollution if waived, shall not be waived during an appeal.

15. Individual Wastewater Discharge Permit Contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the City to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Individual wastewater discharge permits must contain:

- (1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date.
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with subsection (16) of this Section, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
- (3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
- (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be

monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

- (5) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
- (6) Requirements to control Slug Discharge, if determined by the City to be necessary.

B. Wastewater discharge permits shall be expressly subject to all provisions of this Part and all other applicable regulations, user charges and fees established by the City. Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
- (2) Limits on the average and maximum wastewater constituents and characteristics, including local limits and/or categorical standards, as applicable.
- (3) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (4) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to prevent accidental, unanticipated, or non-routine discharges such as slug load as per §328-65(11).
- (5) Development and implementation of waste minimization plans to reduce the number of pollutants discharged to the POTW.
- (6) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW.
- (7) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices.
- (8) A statement that compliance with the individual wastewater

discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit.

- (9) List of prohibited discharges, as presented in §328-65 of this Part.
 - (10) Requirements for submission of technical reports or discharge reports, including the information to be contained and the signatory requirement of these reports.
 - (11) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.
 - (12) Requirements for maintaining and retaining records relating to industrial waste and wastewater discharges and characteristics as specified by the City and affording the City access thereto.
 - (13) Requirements for installation and maintenance of pretreatment facilities.
 - (14) Compliance Schedules.
 - (15) Other conditions as deemed appropriate by the City to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
16. Transferability of Permits. Wastewater discharge permits are issued to a specific industrial user for specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new person, new industrial user, different premises or a new or changed operation without the approval of the City. Any succeeding industrial user shall also comply with the terms and conditions of the existing wastewater discharge permit. The City may, at its discretion, deny the transfer of a wastewater discharge permit and require application for a new wastewater discharge permit under the provision of this Section.
17. Permit Modification. The City may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- A. To incorporate any new or revised Federal, State, or Local pretreatment standards or requirements.
 - B. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance.

- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
 - D. Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters.
 - E. Violation of any terms or conditions of the individual wastewater discharge permit.
 - F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
 - G. Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;
 - H. To correct typographical or other errors in the individual wastewater discharge permit.
 - I. To reflect a transfer of the facility ownership or operation to a new owner or operator when requested in accordance with subsection (16) of this Section.
18. Change in Operations. Each User must notify the City of any significant changes to the User's operations or system including manufacturing processes, raw materials, auxiliary processes, pretreatment processes, or other changes which might alter the nature, quality, volume, or flow rate of its wastewater at least 30 days before the change, or if unplanned, immediately upon making the change. The report shall include all information necessary to determine the effect on the wastewater of the change.
- A. The City may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 328-68.8 of this Part.
 - B. The City may, on receipt of such a report:
 - (1) Continue an existing wastewater discharge permit in effect.
 - (2) Require application for a new wastewater discharge permit.
 - (3) Modify an existing wastewater discharge permit to reflect the changed nature of the waste.
 - (4) Rescind and re-issue an existing wastewater discharge permit in

order to make substantial changes in wastewater discharge permit conditions.

- (5) Revoke an existing wastewater discharge permit or require the industrial user to cease or prevent the discharge.
- (6) Take such action as it deems appropriate.

§328-69 Monitoring and Inspection Requirements.

1. Baseline Monitoring Reports

- A. As soon as possible following the promulgation of a categorical standard, the wastewater discharge permit of industrial users subject to such standards shall be revised, if necessary, to require compliance with such categorical standards within the time frame prescribed by the categorical standard.
- B. Where an industrial user, subject to newly promulgated categorical standard, has not previously submitted an application for a wastewater discharge permit as required by §328-68.8, the industrial user shall, within 180 days after the promulgation of the applicable categorical standard:
 - (1) Apply for a wastewater discharge permit.
 - (2) Provide the baseline monitoring information required by 40 CFR §403.12(b). This information may be incorporated into the application for a wastewater discharge permit.
- C. Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the City a report which contains the information listed in paragraph D, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the City a report which contains the information listed in paragraph D, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- D. Users described above shall submit the information set forth below.

- (1) All information required in subsection (8) of this Section. (See 40 CFR 403.12(6) (1).
- (2) Measurement of pollutants.
 - a. The User shall provide the information required in Subsection 8 G, N, P & Q of this Section.
 - b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
 - d. Sampling and analysis shall be performed in accordance with Subsections 6 & 7 of this Section;
 - e. The City may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.
- (3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in § 328-64.2 and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

- (4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Subsection 2 of this Section.
2. Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by Section 328-69.1. D (4) of this ordinance.
 - A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
 - B. No increment referred to above shall exceed nine months;
 - C. The User shall submit a progress report to the City no later than fourteen days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
 - D. In no event shall more than nine months elapse between such progress reports to the City.
3. Signature and Report Certification.
 - A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver-The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with §328-68.7 & .8; Users submitting baseline monitoring reports under subsection (1) of this Section (See 40 CFR 403.12 (l)); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under subsection (4) of this Section (See 40 CFR 403.12(d)); Users submitting periodic compliance reports required by subsection (5) of this Section (See 40 CFR 403.12(e) and (h)). An Authorized Representative must sign the following certification statement as defined in Section §328-64.2.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

4. Categorical Compliance Report. Within 90 days following the date for final compliance with applicable categorical standards or, in the case of a new source, following commencement of the discharge of industrial waste from processes regulated by categorical standards shall submit to the City a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by categorical standards and the average and maximum daily flow for those process units in the industrial user's facility which are limited by such categorical standards. The report shall certify that the information contained therein concerning wastewater constituents and flows is representative of discharges during normal work cycles. The report shall also state whether the applicable categorical standards are being met on a consistent basis and, if not, what additional operation and management practices and/or pretreatment is necessary to bring the industrial user into compliance with the applicable categorical standards, and including a schedule for completion of the required actions in the form described in subsection (2) of this Section.
5. Periodic Compliance Reports
 - A. All Significant Industrial Users must, at a frequency determined by the City but no less than twice per year (June and December) submit reports indicating the nature and concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the City or the Pretreatment Standard necessary to determine the compliance status of the User.
 - B. For significant industrial users subject to categorical standards, if discharge limits are based on mass units per production unit, then production information regarding the regulated processes during the reporting period shall be included in the report, along with flow and concentration values, so that a determination of compliance or noncompliance with categorical standards can be made.

- C. All periodic compliance reports must be signed and certified ¹¹¹ accordance with Subsection 3 of this Section.
 - D. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
 - E. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City, using the procedures prescribed in Subsection 6 of this Section, the results of this monitoring shall be included in the report. (See 40 CFR 403.12(g) (6))
6. Reporting and Re-sampling of Discharge Limit Violations.
- A. If, upon receipt of valid sampling and testing results, a significant industrial user becomes aware that a violation of discharge limits has occurred, the significant industrial user shall notify the City of this fact, immediately of becoming aware of the violation pursuant to the contact information set forth in the industrial user's permit. Within 30 days of becoming aware of the violation, the significant industrial user shall also sample and analyze its discharge(s) for each parameter found to be in violation and report the results of the re-sampling and analysis to the City.
 - B. Each significant industrial user shall have a duty, on receipt of validly obtained sampling and analysis results, of inspecting the results and determining if any wastewater discharge permit condition has been violated. Failure to examine and compare testing results with wastewater discharge permit conditions shall not be a valid defense for failure to comply with these reporting conditions.
7. Sampling and Analysis.
- A. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures

suggested by the City or other parties approved by EPA 40 CFR Part 136 is incorporated herein by reference and is applicable to all Industrial Users..

- B. Monitoring results submitted to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report that is representative of conditions occurring during the reporting period. If a User subject to any reporting requirement monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City, the results of this monitoring shall be included in the report.
- C. Except as indicated in Section D and E below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the City. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
- D. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- E. For sampling required in support of baseline monitoring and 90-day compliance reports required in §328-69.1 and §328-69.2 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the City may authorize a lower minimum. For the reports required by paragraphs in §328-69.5 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

8. Monitoring Facilities.

- A. The City may require an industrial user to provide and operate, at the industrial user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the wastewater or industrial waste discharge. The monitoring facility should normally be situated on the industrial user's premises, but the City may, when such a location would be impractical or cause undue hardship on the industrial user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
 - B. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user.
 - C. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.
9. Individual Wastewater Discharge Permit Reissuance. A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 425.8 of this ordinance, a minimum of 180 days prior to the expiration of the User's existing individual wastewater discharge permit.
10. Inspections. The City shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, The Superintendent or Pretreatment Coordinator shall be permitted to enter without delay for the purposes of performing specific responsibilities.
 - B. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Superintendent or Pretreatment Coordinator and shall not be replaced. The costs of clearing such access shall be the responsibility of the User.

- C. Unreasonable delays in allowing the City access to the User's premises shall be a violation of this ordinance.
11. Reports from Unpermitted Users. All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Superintendent as the City may require.
 12. Date of Receipt of Reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
 13. Recordkeeping.
 - A. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Part, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the City.
 - B. The City shall keep and maintain all records relating to the administration and enforcement of the industrial pretreatment program including, but not limited to, wastewater discharge permit applications, investigations and calculations, wastewater discharge permits, inspection reports, industrial user results, sampling results and enforcement activities for a minimum of 3 years. In case of ongoing litigation, records shall be maintained as long as they may be required.
 14. Confidentiality
 - A. Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes, or methods of

production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data.

- B. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.
- C. The City shall maintain a secure place to store records containing confidential information and shall insure that all records marked as confidential are kept secure from casual or public scrutiny.
- D. When information accepted by the City as confidential is transmitted to any government agency, a notification to the industrial user shall be provided listing the confidential information transmitted and the governmental entity requesting it.

§328-70 Enforcement

- 1. Right to Refuse. The City reserves the right to refuse to accept wastewater, or combinations of wastewater, which are discharged in violation of the terms or conditions of the industrial pretreatment program, or any written directions issued by the City pursuant to the conditions of the industrial pretreatment program. The City may take such steps as it deems necessary to compel discontinuance of use of the sewer system or pretreatment of industrial wastes in order to comply with the provisions of the industrial pretreatment program
- 2. Violations.
 - A. Any violation of this Ordinance is an instance of noncompliance. Any person or permit holder or User shall be in violation of these regulations and subject to any and all penalties and remedies as set forth herein, if any of the following events occur:
 - (1) Failure to supply the POTW with accurate information of the type, format, frequency and content as the POTW may request;
 - (2) Failure to notify the POTW immediately after User becomes aware or should have become aware by exercise of reasonable diligence,

of any release or discharge of any substances, pollutants, materials, wastes, wastewaters or any other solid, liquid or gaseous matter which may impair the operation or performance of any element of the City Wastewater Management System or the City's Wastewater Collection System;

- (3) Failure to meet any compliance schedule issued by the POTW;
- (4) Exceeding the effluent limits set by the POTW;
- (5) Failure to meet any compliance limits set by the POTW;
- (6) Tampering, altering or in any way changing the information and data collected on the monitoring systems required by the POTW;
- (7) Failure or refusal to provide the POTW access to any site or facility as required by this Resolution;
- (8) Failure or refusal to provide the POTW access, review and photocopies, if requested, of documents or records maintained by the User or under the direction of the User as required by this Ordinance;
- (9) Failure to pay service charges and any special billings when due;
- (10) Any other violation of applicable statute(s) or regulation(s); or
- (11) Any other violation of the User's permit of this Resolution.

B. Violations may be minor violations or major violations. Major violations are those that exceed the limits frequency and/or by a large quantity; impede the determination of compliance status; have the potential to cause or may have caused adverse environmental effects, health problems, or cause interference with POTW treatment plant's capability. Minor violations are any violations that are not classified as major violations.

C. Whenever the City finds that any User has violated or is violating this Ordinance, or any prohibition, limitation, or requirements contained herein or in a User's permit, the City may serve by regular or certified mail upon such person a written Notice stating the nature of the violation. Notice by regular mail shall be deemed sufficient notice. The Notice provided by the City shall set forth the findings of the City, the section of the regulations or other law which has been violated, and the action required to correct the violation within a specified period of time.

3. Enforcement Response Actions.

- A. If any person, User or other party is determined to be in noncompliance with this ordinance or any other regulations or ordinances promulgated by the City or any other governmental agency with jurisdiction, any or all of the following enforcement response action(s) may be imposed:
- (1) The suspension or revocation of any permit issued or the refusal to issue a permit;
 - (2) The reimbursement of any fines levied against the City by any other agency as a result of said violation;
 - (3) The termination of wastewater treatment service;
 - (4) The payment of all monetary damages including system reconstruction damages incurred by the POTW because of said violation;
 - (5) The payment of damages, liquidated or otherwise, or extra service fees;
 - (6) Payment of the cost of any additional monitoring or personnel required by the POTW in its sole discretion in determining that the violation has been satisfactorily corrected;
 - (7) The payment of all administrative, legal and other fees incurred as a result of the violation;
 - (8) Public notification of the violation;
 - (9) Inspection(s), telephonic, or written communications, and/or a notice of violation;
 - (10) The issuance of Compliance Orders, compliance schedules, Cease and Desist Orders, Consent Orders, or other administrative orders;
 - (11) Specific performance of the terms and conditions of any permit or contract shall be enforced;
 - (12) Civil suite for injunctive relief, civil penalties, fines, damages or other equitable relief;
 - (13) Referral of the matter for criminal enforcement proceedings and/or the imposition of fines and/or penalties; or
 - (14) Any other legal remedies available to Lock Haven.

- B. The City shall consider the following factors in determining what is an appropriate response action.
 - (1) Type of violation;
 - (2) Duration of the violation;
 - (3) Compliance history of the violator;
 - (4) Good faith of the violator; and
 - (5) Harm caused by the violation.

- C. Appropriate enforcement response actions may range from no action, an informal response action, or formal response action dependent upon the nature of the violation as determined by the City. Pursuit of one enforcement action by the POTW does not preclude other enforcement activities.

- D. The City shall investigate instances of noncompliance by one or more of the following methods:
 - (1) Inspections including monitoring, sampling, document review (including as-built and as-designed plans and specifications), record review and interviews
 - (2) Communications, written and/or oral;
 - (3) Review of past and current reports submitted by the User;
 - (4) Review of laboratory practices, procedures, protocols and/or quality assurance/quality control procedures;
 - (5) Requests for information;
 - (6) Interviews, meetings, statements; and/or
 - (7) Civil litigation discovery practices.

4. Procedure for Revocation of Permit

- A. Whenever the City finds that any User has violated or is violating these regulations, the wastewater discharge permit, or any prohibition, limitation, or requirement contained herein, the City shall serve by certified mail upon such person a written notice stating the nature of the violation. Response to the notice of violation should be completed per

§328-70, subsection 8, “Notice of Violation.”

- B. The City shall consider the User’s response, if any, before rendering its final determination Order. The City’s final determination Order may direct that:
 - (1) The User’s Permit be immediately revoked;
 - (2) The User’s Permit be revoked on a specific future date unless adequate treatment facilities, devices or other related appurtenances shall have been installed and existing treatment facilities, devices or other related appurtenances are properly operated; or
 - (3) The User’s Permit shall continue in effect.
- C. Further orders and directives may be issued as necessary and appropriate.
- D. If a User fails to immediately comply with the City’s final determination order, the City may enforce the order by taking or all actions stated in §328-70. In addition, the City may seek any other administrative, legal or equitable relief available.
- E. Individual Wastewater Discharge Permit Revocation. The City may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
 - (1) Failure to notify the City of significant changes to the wastewater or the operations prior to the changed discharge;
 - (2) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - (3) Falsifying self-monitoring reports, certification statements, and any other user-supplied information;
 - (4) Tampering with monitoring equipment;
 - (5) Refusing to allow the City timely access to the facility premises and records;
 - (6) Failure to meet effluent limitations;
 - (7) Failure to pay fines;
 - (8) Failure to pay sewer charges;

- (9) Failure to meet compliance schedules;
 - (10) Failure to complete a wastewater survey or the wastewater discharge permit application;
 - (11) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
 - (12) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this Part;
 - (13) Presents or may present an imminent or substantial hazard to life and property;
 - (14) Presents or may present a threat of impairment of any element of the POTW's system to the extent that it fails to fulfill its intended function;
 - (15) Presents or may present a general endangerment to the environment;
 - (16) Failure to comply with the terms and provisions of any enforcement action, notice or order(s); or
 - (17) Failure to cooperate with the City or obstruct necessary City functions pursuant to this Resolution.
- F. Discharge of any industrial waste to the sewer system by a significant industrial user without a wastewater discharge permit is an unauthorized discharge, as provided in, and is subject to the penalties provided herein.
- G. Any industrial user notified of a revocation of its wastewater discharge permit shall immediately stop or eliminate the discharge and cease all wastewater contributions. In the event of a failure of the industrial user to comply voluntarily with the notice of revocation, the discharge shall be considered an unauthorized discharge and the City shall take such steps as deemed necessary, which may include immediate severance of the connection between the building sewer and the sewage collection system, to prevent or minimize damage to the sewer system or endangerment to the environment or any property or person.
- H. Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit that User.

5. Enforcement of Permit Revocation. If the User fails to immediately cease all wastewater discharges upon revocation of his wastewater discharge permit, the City may order any of the following actions to be taken:
 - A. Immediate severance of the User's sewer connection; or
 - B. Any other action designed to immediately termination the User's wastewater discharge.
6. Reissuance of Permit After Revocation.
 - A. Where a User has failed to comply with the provisions of these Standards, Rules and Regulations or any order or previous permit issued hereunder, the City may decline to reissue a Permit.
 - B. A User must submit to the City a plan to comply with the provisions of these regulations or any order or previously permit issued hereunder. At the very least, the plan must outline: (1) what will be done to comply; (2) what has been done to comply; and (3) what time frame will be required to comply.
 - C. Prior to re-issuing a permit, the City may require the User to:
 - (1) File with the City a performance bond payable to the City in sum not to exceed a value determined by Lock Haven to be necessary to achieve consistent compliance; or
 - (2) Submit proof that it has obtained liability insurance acceptable to Lock Haven, sufficient to restore or repair the POTW for damages that may be caused by the User's discharge.
7. Suspension of Permit.
 - A. The City may suspend the wastewater discharge permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference or pass through or causes the City to violate any condition of its NPDES permit or any other National or State law, rule, regulation or permit condition.
 - B. Any industrial user notified of a suspension of its wastewater discharge permit shall immediately stop or eliminate the discharge. In the event of a failure of the industrial user to comply voluntarily with the notice of suspension, the discharge shall be considered an unauthorized discharge and the City shall take such steps as deemed necessary, including

immediate severance of the connection between the building sewer and the sewage collection system, to prevent or minimize damage to the sewer system or endangerment to the environment or any property or person.

- C. If a permit has been suspended because of an unauthorized discharge, which discharge resulted in or contributed to damages to the sewer system or to any person or property, the permit shall not be reinstated until such time as all such damages have been satisfied.
- D. The City shall reinstate the wastewater discharge permit upon submission of proof by the industrial user of the elimination of the unauthorized discharge. A detailed written statement submitted by the industrial user describing the causes of the unauthorized discharge and the measures taken to prevent any future occurrence shall be submitted to the City within 15 days of the date of occurrence.

8. Show Cause Hearing.

- A. Any industrial user who causes or allows an unauthorized discharge to enter the sewer system, or who violates any condition or requirement of the industrial pretreatment program or its wastewater discharge permit, may request to show cause before the City Manager why the proposed enforcement action should not be taken. Such user must request a hearing within thirty (30) calendar days of the date of receipt of the Notice of Violation, order, notice, or other action. A written notice shall be served on the industrial user specifying the time and place of a hearing to be held by the City Manager regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the industrial user to show cause before the City Manager why the proposed enforcement action should be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing. Service may be made on any agent or officer of a corporation if the industrial user is a corporation.
- B. The City Council may designate any of its members or any representative to:
 - (1) Issue in the name of the City notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing.
 - (2) Conduct the hearing.
 - (3) Take the evidence.
 - (4) Transmit a report of the evidence and hearing, including

transcripts and other evidence, together with recommendations for action thereon.

- C. At any hearing held pursuant to this Part, testimony taken must be under oath and recorded stenographic ally. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
 - D. After the City Manager has reviewed the evidence, He shall, in writing, direct the industrial user to take certain actions to correct the unauthorized discharge or to achieve compliance. The actions which may be directed include, but are not limited to:
 - (1) Installation of pretreatment facilities or equipment.
 - (2) Modification or additions to existing pretreatment facilities or equipment.
 - (3) Initiation of management practices which are required to alter the nature of the industrial waste being discharged.
 - (4) Development or implementation of SPCC plans or other measures.
 - (5) Other measures found to be necessary to correct the unauthorized discharge or other noncompliance.
 - E. The direction may be in form of a schedule for compliance, setting dates by which certain actions shall be taken. Failure of an industrial user to comply with written directions issued pursuant to a hearing constitutes a violation of this Part.
9. Administrative Orders. The City shall issue written directions as described in subsection(S)(D), above, without a show cause hearing if the City determines that such directions are necessary to correct or remedy continuing violations of this permit or any wastewater discharge permit or other requirements of the industrial pretreatment program, the City or Federal or State regulations.
10. Compliance Orders. When the City finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional

self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

11. Cease and Desist Orders. When the City finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the City shall issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease-and-desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

12. Consent Orders. The City may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Subsections 7 & 8 of this Section and shall be judicially enforceable.

13. Right of Appeal.

A. An industrial user may appeal the enforcement actions enumerated above in subsections (2), (3), (5), and (6) of this Section; or wastewater discharge permit conditions, in whole or in part. An appeal is subject to the following requirements:

- (1) The appeal must be made in writing to City Council.
- (2) The appeal must be made within 30 calendar days from the date of receipt of the wastewater discharge permit, written directions or notice of denial, suspension, modification or revocation of a wastewater discharge permit being appealed by the industrial user.
- (3) The appeal must state the specific provision(s) of a wastewater discharge permit or the specific directions of the City which are

being contested.

- (4) The appeal must state the reason for the appeal of each provision.
- (5) The appeal may suggest alternate or revised provisions to replace those appealed.
- (6) Provisions mandated by Federal or State regulations (e.g., compliance with categorical standards) shall not be appealed.
- (7) The appeal shall be reviewed by the City Manager.
- (8) Within 30 days of receipt, the City Manager shall report, in writing, to City Council the results of the review. The report shall contain, at a minimum:
 - (9) A summary of each item appealed the appellant's reasons for appeal and the appellant's proposed remedies, if any.
 - (10) The finding of merit for each point and the reason(s) for finding.
 - (11) For each point found to be with merit, a proposed remedy and a finding that the remedy is allowable under this Part and all applicable Federal, State and local rules, regulations and laws.

B. City Council shall review the report and, at one or more regular or special public meetings, take any additional testimony offered by the appellant, reviewer, pretreatment program coordinator or other interested party. City Council shall, within 45 days of the conclusion of testimony, decide to:

- (1) Grant the appeal or portions of the appeal, applying such remedies as it deems proper.
- (2) Deny the appeal.

Such decision of City Council constitutes final administrative action.

14. Publication of Users in Significant Noncompliance. The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C) and (D) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in §328-64.2;
 - B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by §328-64.2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
 - C. Any other violation of a Pretreatment Standard or Requirement as defined by §328-64.2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Superintendent determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
 - D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of his emergency authority to halt or prevent such a discharge;
 - E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
 - F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules; and
 - G. Failure to accurately report noncompliance
15. Records. The City shall maintain records of all enforcement actions taken, the reasons for those actions and the results of those actions. These records shall be made available to the public during normal City business hours.
16. Civil Actions. If any person violates the provisions of the industrial pretreatment program, including local, National or State pretreatment requirements, categorical standards or any wastewater discharge permit or written directions issued by the City, the City may commence an action for appropriate legal

and/or equitable relief in the Court of Common Pleas of Clinton County or any other appropriate forum.

- A. When the City finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may fine such User in an amount not to exceed \$1,000.00 and costs. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. In default of payment of said fines and costs, user will be subject to a term of imprisonment not to exceed 30 days.
 - B. In addition to the penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Part or the rules, regulations and permits issued hereunder.
 - C. Users wanting to dispute such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the City may convene a hearing on the matter. In the event the User's appeal is successful, the payment shall be returned to the User. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
 - D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.
17. Injunctive Relief. When the City finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may petition the Clinton County Court of Common Pleas through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, or other requirement imposed by this ordinance on activities of the User. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.
18. Criminal Actions. The City may institute criminal proceedings against any person or User who violates this Ordinance any other regulation promulgated by Lock Haven or any other governmental unit or Agency including by not limited to the U.S. Environmental Protection Agency and the Pennsylvania Department of

Environmental Protection provided, however, that such action constitutes a violation of any State or Federal criminal statute as may be in effect at the time of the violation.

- A. When the City finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may fine such User in an amount not to exceed \$1,000.00 and costs. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. In default of payment of said fines and costs, user will be subject to a term of imprisonment not to exceed 30 days.
- B. In addition to the penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Part or the rules, regulations and permits issued hereunder.
- C. Users desiring to dispute such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the City may convene a hearing on the matter. In the event the User's appeal is successful, the payment shall be returned to the User. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

19. Administrative Penalties.

- A. Assessment. In addition to proceeding under any other remedy available at law or equity for violation of pretreatment standards and/or requirements, the City may assess a civil penalty upon an industrial user for the violation. The penalty may be assessed whether or not the violation was willful or negligent. The civil penalty shall not exceed \$25,000 per day for each violation regardless of jurisdictional boundaries. Each violation for each separate day shall constitute a separate and distinct offense under this section.
- B. Operational Upsets. For purposes of this section, a User's single operational upset which leads to simultaneous violations of more than one pretreatment standard or requirement shall be treated as a single violation as required by the Federal Water Pollution Control Act, 33

U.S.C. §1319(g)(3). In addition to any civil penalty imposed under this section, the City may also recover its costs for re-establishing the operation of its affected facilities and any other related costs.

- C. Appeal. The Industrial User charged with the penalty shall have thirty (30) days to pay the proposed penalty in full, or, if the Industrial User wishes to contest either the amount of the penalty or the fact of the violation, the Industrial User must, within thirty (30) days, file with the City an appeal of the action and request a hearing. Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.
- 20. False Statements. The City may also instate enforcement proceedings of any type provided for in these Regulations against any person or User who knowingly makes any false statement(s), representation(s) or certification(s) in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance or any wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these regulations.
- 21. Legal Fees. The Hearing Officer shall have the authority to award the City its attorney fees actually incurred in connection with the underlying violation of these Standards, Rules, and Regulations.
- 22. Remedies Nonexclusive. The remedies provided for in this ordinance are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City may take other action against any User when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant User.

§328-71 Supplemental Enforcement Action

- 1. Enforcement Response Plan. The City shall develop an enforcement response plan to guide the pretreatment coordinator in the administration of the industrial pretreatment program. The enforcement response plan shall meet the requirements of 40 CFR §403.S(f) (5) regarding the contents of enforcement response plans. The pretreatment coordinator shall be guided by the enforcement response plan when reviewing industrial user reports, inspection results and other compliance information, and when recommending to the City enforcement action in response to noncompliance.
- 2. Payment of Outstanding Fees and Penalties. The City may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of

this ordinance, a previous individual wastewater discharge permit, or order issued hereunder.

3. **Water Supply Severance.** Whenever a User has violated or continues to violate any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.
4. **Affirmative Defenses to Discharge Violations.**

A. **Upset**

- (1) For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (3), below, are met.
- (3) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and the User can identify the cause(s) of the upset;
 - (b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (c) The User has submitted the following information to the City within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]: (i) A description of the indirect discharge and cause of noncompliance; (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and (iii) Steps being taken and/or planned to

reduce, eliminate, and prevent recurrence of the noncompliance.

- (4) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
- (5) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.
- (6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

B. Prohibited Discharge Standards

- (1) A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in §328-65.1 of this ordinance or the specific prohibitions in §328-65.3(A) through §328-65.3(S) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:
 - (a) A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
 - (b) No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

C. Bypass

- (1) For the purposes of this Section,
 - (a) Bypass means the intentional diversion of waste streams from any portion of a User's treatment facility.

- (b) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (2) A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C (3)) and (C (4)) of this Section.
- (3) Bypass Notifications
 - (a) If a User knows in advance of the need for a bypass, it shall submit prior notice to the City, at least ten (10) days before the date of the bypass, if possible.
 - (b) A User shall submit oral notice to the City of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been connected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (4) Bypass is prohibited, and the City may take an enforcement action against a User for a bypass, unless
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in

the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- (c) The User submitted notices as required under paragraph (C(3)) of this section.
- (5) The City may approve an anticipated bypass, after considering its adverse effects, if the City determines that it will meet the three conditions listed in paragraph (C(4)) of this Section.

SECTION II. Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION III. All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed.

SECTION IV. This ordinance shall become effective twenty (20) days after final adoption.

INTRODUCED BY COUNCILMAN _____

PASSED CITY COUNCIL FIRST READING: August 7, 2023

PASSED CITY COUNCIL SECOND READING August 21, 2023

APPROVED:

Joel Long, Mayor

ATTEST:

Gregory Wilson, City Clerk